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Mark L. Freed, Esquire mlf@curtinheefner.com

June 26, 2017

Juan Fajardo, Esquire
U.S. Environmental Protection Agency
Region 2
Regional Counsel
New Jersey Superfund Branch
290 Broadway, 17th Floor
New York, NY 10007-1866

Offer of Cash Out Settlement at the Diamond Alkali Superfund Site
Lower 8.3 Miles of Lower Passaic River; Essex and Hudson Counties, New Jersey

Dear Mr. Fajardo:

RE:

This firm represents E.M. Sergeant Pulp and Chemical Co. (E.M. Sergeant) in regard to the above-referenced matter. We are in receipt of a copy of the U.S. Environmental Protection Agency's (EPA) June 20, 2017 letter regarding the revised cash-out settlement. E.M. Sergeant has the following proposed corrections to the revised agreement.

1. Presently, Paragraph 24 of the agreement provides that:

Within 60 days after the Effective Date, each Settling Party shall pay to EPA \$280,600, plus an additional sum for Interest on that amount calculated from the date that payment is due to EPA pursuant to this Paragraph through the date of payment.

Although we don't believe this is EPA's intention, the language of revised Paragraph 24 leaves the impression that EPA might seek "an additional sum for Interest" even for amounts paid

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within 60 days after the Effective date. Accordingly, we request that EPA change Paragraph 24 to read as follows:

Within 60 days after the Effective Date, each Settling Party shall pay to EPA \$280,600. In addition, in the event that a Settling Party fails to pay EPA within 60 days after the Effective Date, such Settling Party shall also pay to EPA an additional sum for Interest on that amount, calculated from the date that payment is due to EPA pursuant to this Paragraph through the date of payment.

2. Paragraph 24 of the agreement also provides that payment is to be made "to EPA by Fedwire Electronic Funds (EFT)". We have been advised by some carriers that they may be unable to use EFT. We request, therefore, the EPA provide an option for payment by check.

Thank you for your consideration of these corrections. Please feel free to let me know if you have any comments or questions.

Very truly yours,

Mark L. Freed, Esquire

For CURTIN & HEEFNER LLP